

IN THE HIGH COURT OF PUNJAB & HARYANA
CHANDIGARH

Criminal Revision No.623 OF 1995
Date of Decision: October 10, 2007

JASWINDER SINGH

.....PETITIONER

VERSUS

STATE OF PUNJAB

.....RESPONDENT

. . .

CORAM: HON'BLE MR. JUSTICE A.N.JINDAL

Present: Mr. Amarjit Markan, Advocate,
for the petitioner

Mr. Satish Bhanot, Sr. DAG, Punjab

A.N.JINDAL, J

The appeal of the accused petitioner(hereinafter referred to as the petitioner) maintaining the conviction and sentence of the petitioner under Section 304 A of the Indian Penal Code upholding the judgment passed by Sub Divisional Judicial Magistrate Malerkotla dt. 15.09.1993 was dismissed by Sessions Judge Sangrur from where this revision petition has arisen.

The factual matrix of the case as unfolded by the prosecution before the trial Court is that on 08.11.1988 Faquir Mohammad(PW2) on his way back to village DehlijKalan reached near Octroi Post of the village. At about 7 P.M, he also joined Jagdisher Singh, Manjit Singh and Rajwinder Singh. Jagdisher Singh was paddling ahead of Rajwinder Singh and

Faquir Mohammad. When they reached near Ambey Rice Mills, the petitioner while driving tempo No.PCT 1118 rashly and negligently came from the opposite side and struck his tampoo against the cycle of Jagdisher Singh and Rajwinder Singh. Resultantly Jagdisher Singh and Manjit Singh suffered injuries whereas Rajwinder was saved. Manjit Singh succumbed to his injuries on his way to the hospital.

Case was registered on the statement Ex. PC of the Faquir Mohammad recorded on 08.11.1988 and was investigated. Completion of investigation was followed by the presentation of the report under Section 173 of the Indian Penal Code. Consequently, he was charged for the offences under Sections 304A, 337 and 427 of the Indian Penal Code. During trial the prosecution examined Dr. P.K.Bansal(PW1) Faquir Mohammad(PW2) and Jagdisher Singh(PW3), Constable Harbant Singh Mechanic,PW3 (regraded as PW3), Rajinder Singh(PW5), Constable Mohinder Pal(PW6), Sat Pal Garg(PW7) and SI Karnail Singh(PW8).

The trial ended in conviction and the appeal was also dismissed.

Without assailing the judgment of conviction, it has been contended that keeping in view the fact that the accused never intended to cause the accident and he has already paid compensation and also considering the longevity of proceedings, be extended benefit of probation.

Having deliberated over the matter, the occurrence took place on 08.11.1988. The trial remained

pending for 5 years so as the appeal for 2 years. As such the petitioner appears to have suffered lot of agony on account of the protracted proceedings. The LRs of the deceased have already received a sum of Rs. 35,000/- on account of compensation. No bad antecedents of the petitioner has been put forward so as to refuse him benefit of the probation under Section 4(1) of the Offenders Act 1958.

Consequently, this petition is dismissed with the modification in the sentence to the extent that the petitioner is ordered to be released on probation and the sentence of fine is converted into cost of litigation, however, he will pay a sum of Rs. 10,000/- on account of compensation to the LRs of the deceased Manjit Singh in addition to any other compensation as paid to them, within 3 months failing which the judgment of conviction will remain intact.

Copy of the judgment be sent to Chief Judicial Magistrate, Sangrur for compliance.

October 10, 2007
Ruchika

(A.N.JINDAL)
JUDGE

To be referred to reporter: Yes/No